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UNCLAS SAN SALVADOR 002364

SIPDIS

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E.O. 12958: N/A

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SUBJECT: SALVADORANS TO BAN ADVERTISING ON CABLE TV

1. (U) Summary: The Telecommunications and Electricity Superintendency (SIGET) is preparing a draft regulation for cable television that would ban advertising. Such a rule change will have a negative impact on the profitability of U.S.-owned AMNET, which dominates the sector. Post are concerned that SIGET, at the behest of broadcast television stations, is moving forward with the new regulation without engaging in a formal consultative process with all stakeholders. End summary.

2. (U) In late 2004, SIGET announced it would issue formal regulations for cable television (previous regulation existed as part of the broader telecommunications sector) to reduce piracy and enhance competition in the sector. SIGET shared its initial draft with stakeholders in December 2004. AMNET, a U.S. company and the largest cable operator in the local market, complained to SIGET that the first draft would do little to combat piracy because it would allow operators who were stealing programming transmitted by satellite to register with SIGET under the new regulation, provided they negotiated legitimate contracts for the programming within 100 days. Subsequently, SIGET said it would revise the regulation to require that operators transmit legitimate programming before registration.

3. (U) In early 2005, President Sacca named a special commission to support SIGET in further refining the cable television regulation. Curiously, the commission included representatives of broadcast television companies only--leaving cable television companies with no representation. Econoff met July 28 with SIGET Superintendent Jorge Nieto, who said that the commission has recommended several changes to SIGET's first draft, including a provision to ban advertising on cable television. Nieto said local advertising would be banned in particular, though banning advertising included already in international programming would also be considered. [Note: Current telecommunications laws and regulations are silent on this issue. End note.]

4. (U) Nieto, in support of this provision to ban advertising, said that broadcast television and cable television are and should remain two distinct mediums, because cable television receives its revenue from subscribers and broadcast television from advertisers. SIGET's position is that it is a form of unfair competition that cable television collects revenues also from advertising. In addition, he said consumers have complained to SIGET that they shouldn't have to pay a monthly fee for cable television and then suffer through commercials. He said the issue was still under discussion at SIGET, and that he welcomed input from AMNET. However, he was not able to provide a draft of the revised regulation for review, nor describe a process for further consultations with stakeholders on the regulation.

5. (U) Econoff told Nieto that AMNET has made significant investment in telecommunications infrastructure in El Salvador based on a projection of revenue that included both advertising and subscription--changing the rules midstream would deal a blow to their plans for infrastructure expansion. He also replied that regulatory uncertainty in the sector could spill over to other sectors and have a negative impact on the investment climate. Finally, Econoff expressed concern regarding the lack of formal procedures for consultations on the new regulation.

6. (SBU) Comment: Nieto may be subject to influence on this issue from the politically well-organized broadcast television owners who have warm relations with President Sacca. Sacca has extensive experience in the communications sector, and mainstream press have traditionally supported ARENA. Post will continue to press SIGET for regulatory transparency and emphasize the impact this case will have on the investment climate. However, SIGET will likely approve the proposed regulation and ban on advertising--timeframe uncertain. If so, AMNET would likely appeal to the Supreme Court, claiming that the new regulation violated the freedom of speech, which is guaranteed by the Salvadoran Constitution. End comment.

